

Minutes of June 7, 1999

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, June 7, 1999 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Callaway, Mr. Mills, Mr. Wheatley, Mr. Hudson, Mr. Schrader-Esquire, Mr. Rickard-Chief Zoning Inspector and Mrs. Talley-Recording Secretary.

Mr. McCabe asked for any additions or changes to the agenda. Hearing none, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the agenda for June 7, 1999 be adopted. Vote 5-0.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the minutes of May 17, 1999 be approved as circulated. Vote 5-0.

Mr. Schrader read a statement explaining how the Board of Adjustment meeting is conducted and the procedure for hearing the cases.

Case No. 6868--Carter D. Jarmon, Sr. – East of Private Road, 1,179 feet west of Road 402-B (Shaft Ox Corner).

A special use exception to place a manufactured home on a medical hardship basis.

The case was presented by Mr. Rickard. Carter D. Jarmon, Sr. of Frankford was sworn in and testified requesting to renew the placement of a manufactured home on a medical hardship basis. Mr. Jarmon stated that things are the same as they were when the hardship was approved previously and is for the same person.

Mr. Rickard read a letter from the VA Hospital referencing the health of the person living in the manufactured home.

Mr. McCabe reminded the applicant that if approved the hardship has to be reapplied for every two years for as long as it exists.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried unanimously that the special use exception be granted on a medical hardship basis for a period of two (2) years. Vote 5-0.

Case No. 6869--Clarence A. Passwaters – South of Road 224, .44 miles west of Route 30.  
A special use exception to retain a manufactured home on a medical hardship basis.

The case was presented by Mr. Rickard. Clarence Passwaters of Lincoln and Retha Kauffman of Millsboro, were sworn in and testified. Mr. Passwaters requested to renew a manufactured home on medical hardship. He testified that there are no changes in the situation and he wants to continue the use for tenants to look after him.

Mr. McCabe reminded the applicant that the medical hardship has to be reapplied for every two years for as long as it exists.

Debbie Spencer of Lincoln, was sworn in and testified in support of the application, stating that she lives close by the applicant.

Mr. Rickard read a letter from Nancy A. Squires, M.D. referencing the health of Mr. Passwaters.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the special use exception be granted on the basis of medical hardship for a period of two (2) years. Vote 5-0.

Case No. 6870--David Sills – North of Road 273, northwest side of Eagle Way, Lot 141, Section 4, Kings Creek Country Club.  
A variance from the rear yard setback requirement.

The case was presented by Mr. Rickard. David Sills of Bear, was sworn in and testified requesting a 5' variance from the rear yard setback requirement to construct a covered deck, on Lot 141, within Kings Creek Country Club. He stated that Kings Creek Country Club's Architectural Review Committee, has approved his variance request. He placed his dwelling at the present location to conserve mature trees. There is a golf course behind his dwelling.

Mr. Rickard read a letter into the record from the Architectural Review Committee of Kings Creek Country Club, Fred Weldon, Chairman, voicing no objections.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6871--Robert Bocek – North of Route 24, 291 feet west of Road 409, Lot 1,  
Woodsboro.

A variance from the front yard setback requirement for a  
subdivision sign.

The case was presented by Mr. Rickard. Robert Bocek of Ocean View, Delaware, was sworn in and testified, requesting a 23' variance from the 25' setback requirement for a subdivision sign, Lot 1, within Woodsboro. The variance is requested to make the sign more visible from Route 24 and the sign is located in front of Unit 1. Mr. Bocek stated that the sign would be back far enough not to obstruct traffic. In answer to Mr. Hudson's question, he stated that the existing sign will be taken down.

Mr. Mills questioned if the variance is from the base or outside edge of the sign.

Mr. Rickard responded, from the outside edge.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the case be taken under advisement. Vote 5-0.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Callaway, seconded by Mr. Hudson and carried unanimously that the case be tabled until the next meeting. Vote 5-0.

Case Noe. 6872--Milton D. Baugher – North of Road 341, across from Road 327,  
Lot 13, Dogwood Acres.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Milton D. Baugher, III of Dagsboro, was sworn in and testified requesting a 20' variance from the front yard setback of 30', on Lot 13, within Dogwood Acres. Three years ago Mr. Baugher purchased the property with an existing manufactured home on it. He wants to replace the manufactured home with

another unit. He proposes to replace the unit in the same footprint as the existing one, but the unit is 14'x 70' and the existing manufactured home is 10'x 50', so a variance is needed. He stated that there is no problem with the Association and that all other setbacks will be met.

Eugene Corby of Dagsboro, was sworn in and testified in support of the application. He stated that he is the only neighbor that owns property in the development, that other residents lease their land.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Hudson and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6873--Anthony T. Hazzard – West of Road 627, 1,000 feet north of Road 215,  
Lot 10, Annie D. Young Subdivision.  
A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Anthony T. Hazzard of Lincoln, was sworn in and testified requesting a 20' variance from the 40' front yard setback requirement on Lot 10, within Annie D. Young Subdivision. Mr. Hazzard stated that he wants to replace a manufactured home with a double-wide unit. He will replace it in the same basic area. He stated that he will meet the side yard setback requirements.

Mr. Rickard stated that Mr. Bunting, Planning and Zoning Inspector, had checked the property and a variance is needed.

Hanson Young, III and Hattie Young of Lincoln, were sworn in and testified in support of the application, stating that the applicant is a good neighbor and they have no problems with the variance request.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6874--Duane Ruark – West of Road 504, 2,680 feet southwest of Road 509.  
A variance from the side yard and rear yard setback requirements.

The case was presented by Mr. Rickard. Duane Ruark of Delmar, was sworn in and testified requesting a 25' side yard variance and a 25' rear yard variance, for housing livestock. A 50' setback is required from the lot lines. Mr. Ruark stated that the barn will be in line with his garage. He stated that he owns property in the rear and family owns the property on the side.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6875--Elaine Muncy – Southeast of Road 224, southwest of Road 14-E.

A variance from the lot depth and square footage requirements.

The case was presented by Mr. Rickard. Robert Muncy of Houston, was sworn in and testified representing the application and requested a 0.37' variance for depth of a lot (minimum 100' required) and a 9,282 sq. ft. variance from the 32,670 sq. ft. (3/4 ac.), of a lot (2 lots). Mr. Muncy has a one acre parcel and wants to subdivide it into two lots, for single family use. The use will be consistent with what is in the area. Mr. Muncy stated that he has approval from Del.,DOT for two entrances. He stated that the property has been in the family for years and he wants to sell the two lots. He stated that he proposes to put houses or 24' or 26' units on the property. He has site evaluation done for the septic, but does not have approval as yet. One lot will have a frontage of 282' and the other lot will have a frontage of 197 ½'.

Steven Hollenbeck of Milford, James West of Lincoln and Murray Sohn, of Milford were sworn in and testified in opposition. They opposed the variance stating that it will add stress to area; there are small children in the area; they do not want to see smaller lots in the area, and it could set a precedent. Mr. West stated that he lives on Road 224 and that there is no width on the properties now and that an over-pass is coming. Murray Sohn stated that he just moved in the area, has four children and is concerned about the traffic. He has a \$150,000 home and does not want trailers.

Mr. Rickard read a letter of opposition from John W. & Kathy Hickman.

Mr. Muncy stated that he is not proposing to put trailers on the property, but will put single family dwellings there. He asked Del.,DOT about the over-pass, and no additional right-of-way is needed. As far as the traffic concern, there will not be much

more traffic than what is already there. The homes could be modular homes 1100 to 1200 sq. ft. in size.

Mr. Mills made the statement that he would like to see other tax map parcels to get an overall picture of the lots in the area.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be tabled until the next meeting. Vote 5-0.

Case No. 6876--Shirley S. & John L. Hargett, Sr. – South of Road 405, intersection west of Road 402-A, Lot 13, E. A. Timmons Subdivision.

A special use exception to use a manufactured home for storage purposes.

The case was presented by Mr. Rickard. Shirley & John Hargett, Sr. were sworn in and testified, requesting to use a 10'x 40' manufactured home for personal storage. Their property being located on Lot 13, within E. A. Timmons Subdivision. The applicants have three existing sheds on their property. They testified that the developer has no problems with the use. The existing manufactured home is used for their residence. The unit that will be used for storage will have no plumbing.

There were no parties present in opposition.

Motion was made by Mr. Hudson, seconded by Mr. Callaway and carried unanimously that the special use exception be granted. Vote 5-0.

Case No. 6877--Betty J. Foreman – South of Road 595-A, 270 feet east of Road 595.

A special use exception to retain a manufactured home on a medical hardship basis.

The case was presented by Mr. Rickard. Betty J. Foreman was sworn in and testified requesting to renew a medical hardship request that was approved by the Board, Case No. 5379. Ms. Foreman stated that there are no changes in the situation and the use is still needed.

Mr. Rickard read a letter from Joseph Black, M.D. referencing the medical hardship.

Sandra Hill and Carol Sigman of Ellendale, were sworn in and testified in opposition, stating that it does not appear that the applicants son (who the medical

hardship is for) is the only one living in the manufactured home, and that other people are going in and out. Concern was expressed about the condition of the manufactured home, depreciation of property, value of other property being affected and traffic. They are not opposed to the applicant.

Ms. Foreman stated that she feels her property is ok, that her son is mentally ill and her daughter and her son live in the unit. She stated that she does not want to depreciate other properties.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the case be taken under advisement. Vote 5-0.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be tabled until the next meeting. Vote 5-0.

Case No. 6878--Arnold P. Obenshain - West of Route 13-A, 500 feet north of Road 480,  
Lot 7, C. M. Passwaters Subdivision.  
A variance from the side yard and rear yard setback requirements.

The case was presented by Mr. Rickard. Arnold Obenshain, of Laurel, was sworn in and testified requesting a 11'2" variance from the side yard setback requirement of 15' and a 5' variance from the rear yard setback requirement of 20', to make an addition to a storage shed. It was stated that the location is the only side the addition can go on. The addition will be used for storage. Mr. Obenshain stated that he had talked to his neighbors about his variance.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the case be taken under advisement. Vote 5-0

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variances be granted. Vote 5-0.

Case No. 6879--Daniel H. & Lillie G. Vicari - East of Road 347, west of Suzon Place,  
Lot 8, Bowerset.  
A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Daniel & Lillie Vicari of Port Deposit, MD, were sworn in and testified requesting a 2' variance from the side yard setback requirement of 15' on a corner lot, being Lot 8, within Bowerset. It was stated that there is no problem with the Association or neighbor.

There were no parties present in opposition.

Mr. Rickard read a letter from Atlantic Auction Co., Inc., Robert Kauffman, President, voicing no opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6880--Roger L. Lambeth – South of Route 54, east of Cleveland Avenue,  
Lot 17, Cape Windsor.

A variance from the side yard and rear yard setback requirements.

The case was presented by Mr. Rickard. Roger Lambeth of Fenwick Island was sworn in and testified requesting a 5' variance from the 10' side yard setback requirement and a 5' variance from the 20' rear yard setback requirement on Lot 17, within Cape Windsor, for a proposed two-story dwelling. Mr. Lambeth stated that he has approval from the Association and submitted a copy of the approval. He stated that his dwelling will not be on pilings, but on a foundation.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried unanimously that the variances be granted. Vote 5-0.

Case No. 6881--Reginald & Jean Hendricks – South of Road 368, Lot 27, Bethany  
Meadows.

A variance from the rear yard setback requirement.

The case was presented by Mr. Rickard. Charles David Walter of Ocean Pines, MD was sworn in and testified representing the applicants, who requested a 2' variance from the 10' rear yard setback for cantilevering on Lot 27, within Bethany Meadows. Mr. Walter stated that prior to construction he had contacted the Planning and Zoning Office, and was told there would be no problem with the cantilevering over the setback

line. A Certificate of Compliance was issued according to Mr. Walter. It was after this they were told that they were in violation.

Mr. Rickard explained the cantilevering and the inspection done by the Zoning Inspector. It was when the applicant increased the square footage it was illegal. Mr. Rickard read a letter from Bethany Meadows, Glenn Prettyman and Dave Shields, voicing no objections.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Hudson and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6882--Cynthia Chirtea – East of Shore Drive, south of California Avenue,  
North Shores.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Jim Fuqua, Esquire, was present representing the applicant who requested a 2.4" variance from the 10' side yard setback (East side) and 2' variance from the 15' corner side (West side), for a dwelling. The applicants purchased the property in 1986, with a home on it. A survey was done and showed an encroachment. The builder built the home too close to the property lines. Mr. Fuqua stated that walls would have to be removed without the variance.

Mr. Rickard stated that no correspondence had been received pertaining to this case.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variances be granted. Vote 5-0.

The Board took a short recess. Mr. McCabe called the meeting back into session at 8:05 P. M.

OLD BUSINESS

Case No. 6857 (cont'd.)--Greg A. Nailor – West of Road 42, 1,850 feet south of Road 635.

A variance from the lot width requirements.

The case was reviewed by Mr. McCabe.

Mr. Rickard stated that he had researched the 50' agriculture setback as requested by the Board. Mr. Rickard stated that the use already exists and the agriculture setback is not doing anything to the sides. He stated that the applicant is coming up the middle and rear line.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6860 (cont'd.)--Eller Media Company – West of Route 113, .40 miles south of Berry Road.

A special use exception to replace a billboard and a variance from the square footage for signs.

The case was reviewed by Mr. McCabe.

Mr. Callaway stated that he had gone to see the billboard and there is only a wooden pole left. He questioned when the billboard was taken down.

It was the consensus of the Board that since there is litigation going on now with the applicants pertaining to another case, Mr. Berl, Attorney for the Board, needed to be present to advise the Board on this case and Case No. 6861.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be tabled until Mr. Berl returns. Vote 5-0.

Case No. 6861 (cont'd.)--Eller Media Company – West of Route One, 1,000 feet north of Route 9.

A special use exception to replace a billboard and a variance from the square footage and height requirements for signs.

The case was reviewed by Mr. McCabe.

This case was discussed with the previous case No. 6860.

It was the consensus of the Board that since there is litigation going on now with the applicants pertaining to another case, Mr. Berl, Attorney for the Board, needed to be present to advise them on this case and Case No. 6860.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be tabled until Mr. Berl returns. Vote 5-0.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the meeting be adjourned.

Meeting adjourned at 8:48 P. M.